

STANDARD APPLICATION
Harford County
Board of Appeals

Bel Air, Maryland 21014

MAR 29 2004

HARFORD COUNTY COUNCIL

Case No. 5418
Date Filed 3-25-04
Hearing Date _____
Receipt _____
Fee \$ 700

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

_____ Administrative Decision/Interpretation
_____ Special Exception
_____ Use Variance
_____ Change/Extension of Non-Conforming Use
_____ Minor Area Variance
_____ Area Variance
_____ Variance from Requirements of the Code
_____ Zoning Map/Drafting Correction

CASE 5418 MAP 55 TYPE Expansion of a Non-Conforming ICSC, Use, Buildings
ELECTION DISTRICT 3 LOCATION 2315 Belair Road, Fallston, Md. 21047
BY JMJ Fallston Properties LLC, c/o 6724 Westbrook Rd., Baltimore, Md. 21215
Appealed because a request pursuant to Sections 267-19, 267-20 and 267-21 of the Harford County Code to allow an extension of an existing ICSC and enlargement of an existing non-conforming use and buildings in a B2 and Agricultural District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name JMJ FALLSTON PROPERTIES, LLC Phone Number CONTACT ATTORNEY

Address c/o 6724 WESTBROOK ROAD, BALTIMORE, MD 21215
Street Number Street City State Zip Code

Co-Applicant NONE Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser NONE Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative ALBERT J.A. YOUNG, ESQUIRE Phone Number 410-838-5500

Address 200 S. MAIN STREET, BEL AIR, MD 21014
Street Number Street City State Zip Code

Land DescriptionAddress and Location of Property INTERSECTION OF BELAIR ROAD AND MOUNTAIN ROAD (MD ROUTE 152);2315 BELAIR ROAD, FALLSTON, MD 21047Subdivision N/ALot Number N/AAcreage/Lot Size 13.77 ACRESElection District 03Zoning B2/AGTax Map No. 55Grid No. 3DParcel 523

Water/Sewer: Private _____

Public XXList ALL structures on property and current use: (1) 57,075 SF STRIP SHOPPING CENTER; (2) 12,969 SF STRIP SHOPPING CENTER; (3) 2,520 BANK PAD SITE; AND (4) 11,325 SF WESTERN AUTO PAD SITEEstimated time required to present case: ONE HOUR (WITHOUT OPPOSITION)If this Appeal is in reference to a Building Permit, state number N/AWould approval of this petition violate the covenants and restrictions for your property? NOIs this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No XIs this request within one (1) mile of any incorporated town limits? Yes _____ No X**Request**SEE ATTACHED**Justification**SEE ATTACHED

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

JMJ FALLSTON PROPERTIES, LLC
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Request

JMJ Properties, L.L.C. (the "Applicant") is the owner of the subject parcel of land, identified as Tax Map 55, Parcel 523, containing 13.77 acres of land, more or less, located at the intersection of Belair Road and Maryland Route 152 (Fallston Road), 2315 Belair Road, Fallston, Maryland 21047, improved by the Fallston Shopping Center. The property is split zoned B2/AG, with ± 2.4 acres in AG, and the remaining 11.37 acres in B2. The parcel is improved by four (4) structures, which are primarily situated on the B2 portion, consisting of a (1) retail strip shopping center, consisting of one building containing $\pm 57,075$ sf (location of Acme Food Market and various other in-line retail stores), and one building containing $\pm 12,969$ sf (in-line retail stores); (2) a bank pad site, containing 2,520 sf; and (3) a Western Auto pad site, containing $\pm 11,325$ sf. The center was approved and constructed prior to the enactment of Section 267-47 of the Harford County Zoning Code (the "Code") respecting Integrated Community Shopping Centers ("ICSC"), but has operated as an ICSC since its initial construction.

The Applicant plans a comprehensive renovation of the exterior of the entire shopping center and a number of improvements and design enhancements, including, but not limited to, a new facade to all buildings, new walkways and curbs, re-paving of parking lots, improved signage, new landscaping, lighting, and amenities, all of which will improve the appearance of the center, as well as providing increased usability to the public.

The Applicant is requesting an (1) expansion of the existing integrated community shopping center by enlarging the (a) west side of the larger strip shopping center by $\pm 20,000$ sf; and (b) west side of the Western Auto building by $\pm 4,800$ sf; and (2) expansion of the existing non-conforming buildings, structures, and uses.

Justification

The residential neighborhoods in the immediate vicinity of the shopping center have grown considerably over the past decade, increasing demand for additional shopping. The location of the center makes it readily accessible to many of the existing and new residential communities. Absent this center, residents must travel a considerable distance to find a food market and other convenient in-line shopping retail stores. The proposed expansions will provide for the additional shopping needs of the local residents.

In accordance with Section 267-19, *Non-Conforming Lots*, Section 267-20, *Non-Conforming Buildings, Structures, and Uses*, and Section 267-21, *Enlargement or Extension of Non-Conforming Buildings, Structures, or Uses*, of the Code, the existing non-conforming use and proposed expansions can be accomplished in accordance with the Code criteria for expansion of non-

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conforming uses. Specifically, the proposed expansions of the non-conforming buildings (1) does not change the existing use to a less-restricted and more-intense use; (2) does not exceed 50% of the gross square footage in use at the time of the creation of the non-conforming center; (3) does not violate the height or coverage regulations for the district; (4) will not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood; and (5) meets all requirements of the Limitations, Guides or Standards set forth in Section 267-9(I) of the Code. The proposed expansions will not create an adverse impact on schools, hospitals, libraries, or churches in the community.

There has always been, and will continue to be, unrestricted right of access to both Belair Road and Mountain Road from the center. It is anticipated that traffic to the center will increase only moderately more than the current traffic generated by the center, and should not create an unmanageable burden on either Belair Road or Mountain Road traffic. In fact, access from both Belair Road and Mountain Road allow for a normal flow of traffic during all business hours.

The Applicant proposes to provide for an increase in the existing parking to accommodate the proposed enlargements to the buildings. Existing parking spaces total (1) 362 spaces in the strip shopping center; (2) 32 spaces on the bank pad site; and (3) 59 spaces on the Western Auto pad site, for a total of 453 parking spaces. Proposed building expansions will eliminate 98 spaces throughout the center. Applicant will be replacing the lost parking spaces with 114 new spaces. Additionally, Applicant proposes a reduction of $\pm 1,006$ sf of space on a portion of the larger retail strip building containing $\pm 57,075$ sf. The reduction will allow for ease of ingress and egress to the proposed new parking spaces to be located between the larger and smaller strip centers, as shown on the Site Plan. The proposed expansions, together with the intended reduction, will result in an overall square footage for the center of $\pm 107,683$.

Section 267-25, *Off-Street Parking and Loading*, of the Code, requires one parking space for 250 sf of gross leasable floor area for shopping centers. Assuming gross leasable area for the center of $\pm 107,000$ sf, following the renovation and expansion, required parking would total 428 spaces. Given the existing spaces, plus the additional proposed new spaces, the center will have a total of 469 spaces, or 41 spaces over Code requirements.

Applicant can operate in full compliance with all other provisions of the Code. For a detailed rendering of the proposed expansions and parking, see the attached Site Plan, prepared by George W. Stephens, Jr. and Associates, Inc.

JAMES M. HARKINS
HARFORD COUNTY EXECUTIVE

JOHN J. O'NEILL, JR.
DIRECTOR OF ADMINISTRATION



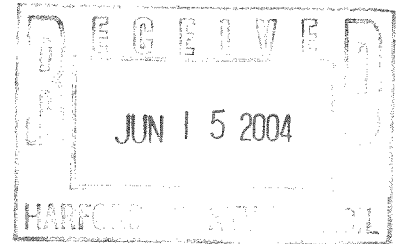
J. STEVEN KAI-ZIEGLER
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

June 14, 2004

STAFF REPORT



BOARD OF APPEALS CASE NO. 5418

APPLICANT/OWNER: JMJ Fallston Properties, LLC
c/o 6724 Westbrook Road, Baltimore, Maryland 21215

REPRESENTATIVE: Albert J.A. Young, Esquire
200 S. Main Street, Bel Air, Maryland 21014

LOCATION: Southeast quadrant of Bel Air Road (US Route 1) and Mountain Road (MD Route 152)
Tax Map: 55 / Grid: 3D / Parcel: 523
Election District: Three (3)

ACREAGE: 13.77 acres

ZONING: B2/Community Business and AG/Agricultural Districts

DATE FILED: March 25, 2004

HEARING DATE: June 23, 2004

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicant has submitted a request pursuant to Section 267-19, 267-20 and 267-21 of the Harford County Code for an extension of an existing Integrated Community Shopping Center

Preserving our values, protecting our future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410-638-3000 • 410-879-2000 • TTY 410-638-3086 • www.co.ha.md.us

This document is available in alternative format upon request.

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(ICSC) and enlargement of an existing non-conforming use and building in the B2/Community Business and AG/Agricultural Districts.

Section 267-19 of the Harford County Code reads:

267-19. Nonconforming lots.

- A In any district, a principal use and customary accessory buildings, where permitted, may be erected on any nonconforming lot, provided that all of the following conditions are met:*
- (1) The front, side and rear yards shall conform to the regulations applicable at the time the lot was recorded, unless otherwise specified. [Amended by Bill 84-55]*
 - (2) If the lot lacks the required road frontage as set forth in this Part 1, then the lot shall have an unrestricted right of access to a public road.*
- B. Any lot reduced in area or yard dimensions failing to conform to the requirements of this Part 1, by reason of a realignment or dedication of any public road or by reason of a condemnation proceeding, shall be a nonconforming lot. This provision shall not apply to roads created as part of a subdivision.*
- C. [Added by Bill No. 84-55] For lots existing as of December 5, 1957, the following shall apply: In any district where dwellings are permitted, a single-family dwelling may be located on any nonconforming lot or plot of official record as of December 5, 1957, irrespective of its area or width or the width of the road on which it fronts, subject to the following requirements:*
- (1) The sum of the side widths of any such lot or plot shall be thirty percent (30%) of the width of the lot, but in no case shall any one (1) side yard be less than ten percent (10%) of the width of the lot.*
 - (2) The depth of the rear yard of any such lot shall be twenty percent (20%) of the depth of the lot, but in no case shall it be less than ten (10) feet.*
 - (3) In case the right-of-way of the road on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the setback requirement for the district plus twenty-five (25) feet and shall be measured from the center line of the road.*

267-20. Nonconforming buildings, structures and uses.

Nonconforming buildings, structures or uses may be continued subject to the following provisions:

- A. No nonconforming use shall be changed to a use not permitted by this Part 1 in the particular district in which the building or structure is located, except:*
- (1) If no structural alterations are made, a nonconforming use of a building may be changed to a similar or more-restricted use.*
 - (2) Whenever a nonconforming use has been changed to a more-restricted use, such use shall not thereafter revert to a less-restricted use.*
 - (3) When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.*

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- B. *[Amended by Bill No. 84-55] Any residential use may be continued and may be enlarged without increasing the number of dwelling units therein, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.*
- (1) *Residential uses, when located in an industrial district, may be enlarged, provided that the enlargement does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity. Expansion is permitted, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.*
- (2) *A mobile home located in a residential district may be replaced with one of a larger size provided that the enlargement does not exceed fifty percent (50%) of the gross square footage of the mobile home in use at the time of the creation of the nonconformity.*
- C. *In the event that a nonconforming use ceases for a period of one (1) year or more, then the nonconforming use shall be deemed abandoned, and compliance with this Part 1 shall be required. The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.*
- D. *Any nonconforming building or structure, which is damaged by less than fifty percent (50%) of its replacement value may be reconstructed to its former dimensions on the same lot and with the same nonconforming use. Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any building or structure declared to be unsafe.*
- E. *An accessory structure located on a residential lot or agricultural parcel shall be considered a nonconforming structure subject to the provisions of this Article if it meets the following conditions:*
- (1) *The accessory structure was located prior to September 1, 1982.*
- (2) *An approved zoning certificate was not obtained for the location of such structure.*
- (3) *The accessory structure otherwise conforms to the requirements of Ordinance 6 of 1957.*

267-21. *Enlargement or extension of nonconforming buildings, structures or uses.*

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- A. *The proposed extension or enlargement does not change to a less-restricted and more intense use.*
- B. *The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity.*
- C. *The enlargement or extension does not violate the height or coverage regulations for the district.*
- D. *The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.*

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E. The limitations, guides and standards set forth in Section 267-9I, Limitation, guides and standards, are considered by the Board.

Section 267-9I will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicant's property is located on the southeast corner of the intersection of Bel Air Road (US Route 1) and Mountain Road (MD Route 152). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located in the Development Envelope. The area along the north and south sides of Bel Air Road is designated as High Intensity. To the north the area is designated as Agricultural/AG Residential. To the south of Bel Air Road there is a large area designated as Rural Residential. The subject property is located in the High Intensity designation found on the south side of Bel Air Road, which is defined by the 1996 Master Plan as:

High Intensity - Areas within the Development Envelope where residential development occurs at a density greater than 7.0 dwelling units per acre. Major retail commercial centers and highway-related businesses, such as automobile dealerships and home improvement centers, are examples of some of the most intensive uses associated with this designation.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses conform to the overall intent of the Master Plan. The area along the north and south sides of US Route 1 contains a mix of commercial and residential uses. These uses include auto sales and repair, professional and personal services, medical related uses, general retail and a shopping center that is the subject this Board of Appeals request. Enclosed with the report is a copy of the aerial photograph (Attachment 6).

The subject property is a uniquely shaped parcel with frontage and access on US Route 1 and MD Route 152. It is approximately 13.77 acres in size. The topography of the site ranges from level to gently rolling. Improvements consist of an L-shaped strip shopping center, two pad sites and paved parking. The two pad sites, which include a bank and a Western Auto, have direct frontage on US Route 1, access however is from entrance roads from US Route 1 and MD Route 152 and a private road within the center as shown on the Applicant's site plan. The main shopping center sits to the rear of the site and is not readily visible from either road because of existing commercial and professional/service uses along US Route 1 and trees and topography

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along MD Route 152. The buildings are a mix of brick and frame one-story buildings. Enclosed with the report is a copy of the topography map and site photographs (Attachments 7 and 8).

Zoning:

The zoning classifications in the area conform to the intent of the 1996 Master Plan. Residential zoning ranges from RR/Rural Residential to R2/Urban Residential. Commercial zoning includes B2/Community Business, B3/General Business and CI/Commercial Industrial Districts. The subject property is split zoned with B2/Community Business and AG/Agricultural District as shown on the enclosed copy of the Zoning Map (Attachment 9). A majority of the site is zoned B2 with a fringe of AG/Agricultural along the southern edge of the property that extends into the site and includes a small portion of the existing building. The zoning is the result of a mapping error that was only recently discovered. The entire site was zoned B2/Community Business District; however, the mapping error has created a split zoned parcel and created a non-conforming situation for the existing shopping center.

Zoning History:

The Fallston Shopping Center holdings were the subject of three rezoning applications. The first was in July 1966, Case Number 6-G-4; the second rezoning was in December 1966, Case Number 6-Q-4; and the third rezoning was in January 1976, Case Number 254. All three parcels were rezoned from AG/Agricultural to B2/Community Business Districts (Attachment 10). The non-conformity appears to be the result of a drafting error.

The pre-1982 comprehensive zoning map (Attachment 11) shows the correct zoning for all three parcels. The 1982 comprehensive map reflects the same zoning lines (Attachment 12). The mapping error occurred during the 1989 comprehensive review and was continued to the present 1996 maps (Attachments 13 and 14). Also enclosed is a copy of the aerial photograph with the zoning overlay (Attachment 15). There were never any requests by the Applicant or issues sponsored by the County to change the zoning. In the future, the error should be corrected either by a request through the Board of Appeals as a mapping error, or through the next comprehensive rezoning process.

There are three recorded plats, copies of which are enclosed with this report (Attachments 16, 17 and 18). Plat 44-30 reflects lots 1 and 2 for the Fallston Shopping Center and shows that the entire site was zoned B2, including the development buffer area. Plats 90-43 and 90-44 show the building footprint and parking and also show the entire property as zoned B2/Community Business District.

SUMMARY:

The Applicant has requested pursuant to Section 267-19, 267-20 and 267-21 of the Harford County Code an extension of an existing Integrated Community Shopping Center (ICSC) and enlargement of an existing non-conforming use and building in B2/Community Business and AG/Agricultural Districts.

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Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

267-19. Nonconforming lots:

A In any district, a principal use and customary accessory buildings, where permitted, may be erected on any nonconforming lot, provided that all of the following conditions are met:

- (1) The front, side and rear yards shall conform to the regulations applicable at the time the lot was recorded, unless otherwise specified. [Amended by Bill 84-55]*

The zoning for the shopping center was approved in 1966. The existing shopping center complies with this requirement.

- (2) If the lot lacks the required road frontage as set forth in this Part 1, then the lot shall have an unrestricted right of access to a public road.*

The subject property has three separate road frontages that total 560-feet. The Code standards for an ICSC require a minimum of 300-feet of road frontage. US Route 1 is classified as a Principal Arterial-Rural Road, while MD Route 152 in the area of the subject property is designated as a Minor Arterial-Rural Road. The buildings have access from an internal private road and parking lot circulation.

B. Any lot reduced in area or yard dimensions failing to conform to the requirements of this Part 1, by reason of a realignment or dedication of any public road or by reason of a condemnation proceeding, shall be a nonconforming lot. This provision shall not apply to roads created as part of a subdivision.

Lot areas are not being affected by the expansion and revitalization of the existing shopping center.

C. [Added by Bill No. 84-55] For lots existing as of December 5, 1957, the following shall apply: In any district where dwellings are permitted, a single-family dwelling may be located on any nonconforming lot or plot of official record as of December 5, 1957, irrespective of its area or width or the width of the road on which it fronts, subject to the following requirements:

Not applicable to the request. The Board of Appeals approved the zoning of the site, the shopping center and the layout of the buildings. The expansion of the buildings will not impact the approved setbacks for the ICSC.

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- (1) *The sum of the side widths of any such lot or plot shall be thirty percent (30%) of the width of the lot, but in no case shall any one (1) side yard be less than ten percent (10%) of the width of the lot.*

Not applicable to the request. The shopping center will exceed minimum Code requirements.

- (2) *The depth of the rear yard of any such lot shall be twenty percent (20%) of the depth of the lot, but in no case shall it be less than ten (10) feet.*

Not applicable to the request. The shopping center will exceed this requirement.

- (3) *In case the right-of-way of the road on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the setback requirement for the district plus twenty-five (25) feet and shall be measured from the center line of the road.*

Not applicable to the request.

267-20. Nonconforming buildings, structures and uses:

Nonconforming buildings, structures or uses may be continued subject to the following provisions:

- A. *No nonconforming use shall be changed to a use not permitted by this Part 1 in the particular district in which the building or structure is located, except:*

- (1) *If no structural alterations are made, a nonconforming use of a building may be changed to a similar or more-restricted use.*

The use of the property will not change with the expansion and alteration to the buildings. As presently zoned, most of the shopping center is in the B2/Community Business District and is in compliance with the commercial district requirements. Only a small part of the use is nonconforming due to the Agricultural zoning on the subject property (see Attachment 15). The shopping center has been an active and continuing shopping center since its construction.

- (2) *Whenever a nonconforming use has been changed to a more-restricted use, such use shall not thereafter revert to a less-restricted use.*

Not applicable to the request.

- (4) *When authorized by the Board, one nonconforming use may be substituted for another nonconforming use.*

Not applicable to the request. The proposal presently will not change the use of the property.

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- B. *[Amended by Bill No. 84-55] Any residential use may be continued and may be enlarged without increasing the number of dwelling units therein, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.*

Not applicable to the request.

- (1) *Residential uses, when located in an industrial district, may be enlarged, provided that the enlargement does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity. Expansion is permitted, provided that no such addition shall extend closer to any lot line than existing building surfaces or the required yard dimensions for the district, whichever is less.*

Not applicable to the request.

- (2) *A mobile home located in a residential district may be replaced with one of a larger size provided that the enlargement does not exceed fifty percent (50%) of the gross square footage of the mobile home in use at the time of the creation of the nonconformity.*

Not applicable to the request.

- C. *In the event that a nonconforming use ceases for a period of one (1) year or more, then the nonconforming use shall be deemed abandoned, and compliance with this Part 1 shall be required. The casual, temporary or illegal use of land or structure does not establish the existence of a nonconforming use.*

Not applicable to the subject request. The shopping center has been in continuous use since its original development.

- D. *Any nonconforming building or structure, which is damaged by less than fifty percent (50%) of its replacement value may be reconstructed to its former dimensions on the same lot and with the same nonconforming use. Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any building or structure declared to be unsafe.*

Not applicable to the request. The proposal is to add two additions, one 20,000 square feet and a 4,800 square foot addition on to the existing structures. The balance of the shopping center will be subject to improvement and design enhancements including but not limited to, a new façade to all buildings, new walkways and curbs, repaving of the parking lots, improved signage, new landscaping, lighting and amenities. The Applicant has submitted renderings showing the proposed improvements (Attachment 19).

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E. An accessory structure located on a residential lot or agricultural parcel shall be considered a nonconforming structure subject to the provisions of this Article if it meets the following conditions:

Not applicable to the request.

(1) The accessory structure was located prior to September 1, 1982.

Not applicable to the request.

(2) An approved zoning certificate was not obtained for the location of such structure.

Not applicable to the request.

(3) The accessory structure otherwise conforms to the requirements of Ordinance 6 of 1957.

Not applicable to the request.

267-21. Enlargement or extension of nonconforming buildings structures or uses:

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

A. The proposed extension or enlargement does not change to a less-restricted and more intense use.

It was not until the drafting error occurred during the 1989 Comprehensive Rezoning Review that a portion of the building became non-conforming. The use of the property will not change.

B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity.

The expansions proposed do not exceed 50% of the gross square footage in use at the time of the creation of the non-conformity.

C. The enlargement or extension does not violate the height or coverage regulations for the district.

The proposal will not exceed the impervious surface coverage.

D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.

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The locations of the proposed additions and the improvements to the façade of the buildings will not adversely impact adjacent properties, traffic patterns or the surrounding neighborhood. The proposal will vastly improve the appearance of the shopping center and will be an asset to the community.

E. The limitations, guides and standards set forth in Section 267-9I, Limitation, guides and standards, are considered by the Board.

These issues will be discussed in the following section of the report.

Section 267-9I:

(1) The number of persons living or working in the immediate area.

The neighborhood contains a variety of uses ranging from individual retail to shopping centers, auto related uses and professional and personal services. Residential uses are mainly found further to the north and south of US Route 1. The proposal is to construct two additions to the existing shopping center and to do a major face-lift to the existing structures. The Center has served the community continuously since the late 1970s. With the residential growth that has occurred in the surrounding service area, the improvements and addition will provide better services to the community.

(2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.

The subject property fronts on two major roads; Bel Air Road (US Route 1) and Mountain Road (MD Route 152), which are designated as a Principal Arterial-Rural Road, and a Minor Arterial-Rural Road, respectively. The existing shopping center has entrances on each road. The proposed additions, structural improvements and façade changes will not adversely impact the existing roads. The Applicant is proposing to modify the parking layout and drive aisles, which should improve internal movement within the shopping center.

(3) The orderly growth of the neighborhood and community and the fiscal impact on the county.

The proposed additions and improvements are in keeping with the intent of the Master Plan, the Zoning Code and planned uses along US Route 1. The existing shopping center has been serving the surrounding community since the late 1960s. Due to the residential growth in the area it is time to update and expand the shopping center to better serve the citizens in the area.

(4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.

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The proposed expansion will not change the use of the property in regards to the items listed above.

- (5) *Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. The Fallston and Bel Air Volunteer Fire Departments will handle the fire protection and emergency needs. Public sewer and water serve the project. The Applicant will continue to dispose of trash and other wastes as has been done in the past.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

The proposal is consistent with accepted planning principles.

- (7) *The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.*

The proposal will have no impact on any of the uses listed in this section.

- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

The existing use and proposed expansion of the two buildings, structural and façade changes are part of the orderly growth of the neighborhood and the County.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

This site contains floodplain and floodway. The main structures of the Fallston Mall are within the floodplain, with a tip of the easternmost building in the floodway as depicted on the most recent FEMA maps. The property owner has been working with FEMA for approval of a Letter of Map Revision (LoMR) to revise the floodplain/floodway boundaries. The Department received a copy of the approval from FEMA on June 9. This proposal will not impact any structure within the existing or proposed floodway. The Floodplain Ordinance (Chapter 131 of the Harford County Code) allows for commercial development within the floodplain. The proposed expansion of the non-conforming structure can comply with all provisions of the Floodplain Ordinance. The building adjacent to Bel Air Road is outside of the floodplain. The current floodplain/floodway map is attached (Attachment 20). Also enclosed is a copy of the revised floodplain/floodway map (Attachment 21).

- (10) *The preservation of cultural and historic landmarks.*

Not applicable to the request.

STAFF REPORT

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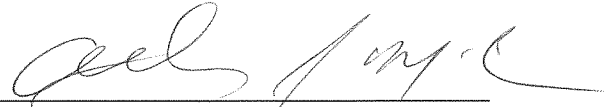
RECOMMENDATION and SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the Applicant's request be approved subject to the following conditions:

1. The Applicant shall submit a site plan to be approved by the Department that will include building layout, parking, signage, lighting and landscaping. The site plan shall be in substantial compliance with the plan submitted as Attachment 3.
2. The Applicant shall obtain all necessary permits and inspections for the additions and structural/façade changes to the existing buildings. These changes shall be in substantial compliance with the renderings shown on Attachment 19.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/ka